

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

|                          |   |              |
|--------------------------|---|--------------|
| FRANK GEORGE McALESSÉ    | : | CIVIL ACTION |
| v.                       | : |              |
| EDWARD T. BRENNAN, et al | : | NO. 02-2893  |

ORDER

AND NOW, this                    day of January, 2004, it is ORDERED that petitioner's, pro se, motion for leave to appeal and leave to file an application for a certificate of appealability, nunc pro tunc is GRANTED in part.

Because petitioner represents that he did not receive a copy of the Order of October 21, 2003 his notice of appeal will be treated as a timely filed notice of appeal from the Order.

Since the Court has stated that there is no probable cause to issue a certificate of appealability, petitioner's motion for leave to file application is DENIED. Petitioner is directed to apply to the Court of Appeals for such a certificate.

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THOMAS N. O'NEILL, JR.,     J.